

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

DAVID SCOTT VARNALL
PLAINTIFF

VS

CPL. ANTHONY MENDEZ ET AL
DELAWARE STATE POLICE TROOP 1

PTLM LOWE, UNKNOWN OFFICERS WHO
RESPONDED TO SCENE OF MILLSBORO
POLICE AND PFC. BICKERT
DEFENDANTS

NO. 05-527-SLR

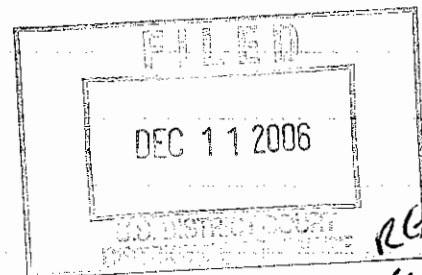
NOTICE OF MOTION

TO: OFFICE OF THE CLERK

U.S. DISTRICT COURT

844 N. KING ST LOCKBOX 18

WILMINGTON, DE 19801



PLEASE TAKE NOTICE THAT THE ATTACHED MOTION FOR
PLAINTIFF'S FIRST SET OF INTERROGATORIES TO DEFENDANTS WILL
BE PRESENTED AT THE CONVENIENCE OF THE HONORABLE COURT.

DAVID SCOTT VARNALL 548973

[Signature]

S.C.T.

P.O. Box 500

GEORGETOWN DE 19947

DATED: 12/06/06

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

DAVID SCOTT YARNALL
PLAINTIFF

VS

CPL ANTHONY MENDEZ ET AL
DELAWARE STATE POLICE TROOP 7
ATM LOWE, UNKNOWN OFFICERS WHO
RESPONDED TO SCENE OF MILLSBORO
POLICE AND PFC. BUCHERT
DEFENDANTS

PLAINTIFF'S

FIRST SET OF

INTERROGATORIES

TO DEFENDANTS

CIVIL ACTION NO. 05-527-SLR

IN ACCORDANCE WITH RULE 33 OF THE FEDERAL RULES OF CIVIL PROCEDURE, PLAINTIFF REQUESTS THAT DEFENDANTS CPL ANTHONY MENDEZ ET AL ANSWER THE FOLLOWING INTERROGATORIES UNDER OATH, AND THAT THE ANSWERS BE SIGNED BY THE PERSON MAKING THEM AND BE SERVED ON PLAINTIFF'S WITHIN 30 DAYS OF SERVICE OF THESE INTERROGATORIES.

IF YOU CANNOT ANSWER THE FOLLOWING INTERROGATORIES IN FULL, AFTER EXERCISING DUE DILIGENCE TO SECURE THE INFORMATION TO DO SO, SO STATE AND ANSWER THE REMAINDER AND STATING WHATEVER INFORMATION OR KNOWLEDGE YOU HAVE CONCERNING THE UNANSWERED PORTIONS

THESE INTERROGATORIES SHALL BE DEEMED CONTINUING, SO AS TO REQUIRE SUPPLEMENTAL ANSWERS AS NEW AND DIFFERENT INFORMATION MATERIALIZES.

- ① HOW LONG HAS MENDEZ BEEN A STATE TROOPER FOR THE DELAWARE STATE POLICE?
- ② HAS CPL. MENDEZ EVER HAD A COMPLAINT LODGED AGAINST HIM AND BEEN UNDER INVESTIGATION BY INTERNAL AFFAIRS OF THE DELAWARE STATE POLICE BEFORE MAY 11TH 2005?
- ③ WHY DIDNT MENDEZ SEARCH ME AFTER HE HANDCUFFED ME AND PLACE ME IN THE POLICE CRUISER KNOWING FROM THREE WITNESSES THAT I WAS OUT OF CONTROL BEFORE MY ARREST?
- ④ WHY DIDNT MENDEZ USE PEPPER SPRAY INSTEAD OF A FLASHLIGHT?
- ⑤ DID MENDEZ EVEN HAVE A CAN OF PEPPER SPRAY ON THE NIGHT OF MAY 11TH 2005?
- ⑥ IS IT TRUE MENDEZ, THAT YOUR SUPERIORS TOOK YOUR PEPPER SPRAY AWAY FROM YOU BECAUSE YOU HAD ABUSED THE USE?
- ⑦ MENDEZ, DID YOU TELL ANYBODY IN GEORGETOWN RIGHT AFTER MY ARREST THAT MAYBE I WOULDN'T REMEMBER OR THAT I WASN'T SMART ENOUGH TO PURSUE THE INJUSTICE YOU AND OTHER POLICE DID TO ME, DSU?
- ⑧ MENDEZ, WHAT WERE YOUR INTENTIONS AND REASONING FOR HITTING ME, DSU, ON THE HEAD, TO KNOCK ME UNCONSCIOUS OR TO KILL ME?
- ⑨ MENDEZ, DO YOU HAVE A DRINKING PROBLEM?
- ⑩ MENDEZ, BECAUSE THE SECOND BLOW TO MY HEAD CAUSED THE FLASH-TO COME OUT OF YOUR HAND, HOW MANY TIMES WOULD YOU HAVE KEPT HITTING ME ON THE HEAD?
- ⑪ DID MENDEZ HAVE A TASER GUN THAT NIGHT?
- ⑫ WAS I, DSU, TASERED SO I WOULD FORGET WHAT I SAW THAT NIGHT TO COVER UP THE FACT THAT YOU AND OTHER COPS USED PC3 TO REMOVE EVIDENCE TO COVER UP A CRIME THAT YOU COMMITTED AGAINST ME, DSU?
- ⑬ WHO WERE THE OFFICERS ALREADY ON THE SCENE ACROSS THE HOOD FROM US?

- ⑭ MENDEZ, WHO TOLD PC2 TO PUT HIS HAND IN MY RIGHT FRONT POCKET AND PULL SOMETHING OUT AND PLACE IT ON THE HOOD WITH MY OAKLEYS?
- ⑮ MENDEZ, WHO IS THE FORTH OFFICER CHASING ME, THE ONE IN THE VIDEO THAT IS LAST?
- ⑯ WHY ISNT THAT UNKNOWN POLICE OFFICER'S NAME ON THE POLICE REPORT?
- ⑰ WHY DIDNT YOU STATE PC3'S HELP IN THE POLICE REPORT?
- ⑱ MENDEZ, DO YOU THINK THAT I PUT YOUR LIFE IN DANGER WHILE I WAS IN HANDCUFFS THAT YOU HAD TO HIT ME ON THE HEAD WITH A FLASH-LIGHT MADE OF AIRCRAFT GRADE ALUMINIUM WITH BATTERIES INSIDE OF IT ALSO?
- ⑲ ^{DID} ~~DO~~ YOU THINK YOU WOULD GET AWAY WITH THE ASSAULT BY NOT STATING THE INCIDENT IN YOUR ~~COM~~ INITIAL COMPLAINT AND WARRANT OF EXHIBIT A AND B?
- ⑳ DO YOU BELIEVE MENDEZ THAT YOU HAD TO DEFEND YOURSELF BECAUSE I WAS TRYING TO WALK AWAY, WHILE HANDCUFFED, WITH MY BACK TOWARDS YOU THAT YOU HAD TO HIT ME ON THE HEAD WITH A FLASHLIGHT?
- ㉑ WHO IS THE OFFICER THAT GAVE ORDERS FOR LOWE TO ASSAULT ME?
- ㉒ IF INTERNAL AFFAIRS OF THE DELAWARE STATE POLICE THINK YOU ARE NOT TO BLAME FOR SPLITTING MY SCALP OPEN, THEN WHO IS?
- ㉓ ARE YOU QUALIFIED TO BE A COP MENDEZ?
- ㉔ DID YOU KNOW THAT LOWE WAS COMING TO ASSAULT ME?
- ㉕ MENDEZ, IT APPEARS IN THE VIDEO WITH ALL THE ACTIVITY GOING ON ACROSS THE HOOD FROM US, YOU NEVER LOOKED OVER THERE TO SEE WHAT WAS GOING ON. SIRENS ARE HEARD SHORTLY AFTER I LAY MY HEAD DOWN ON THE HOOD. WERE YOU INTENTIONALLY NOT LOOKING OVER AT THAT SIDE BECAUSE THERE WERE COPS THERE AND YOU CHOSE TO IGNORE THEM ON PURPOSE !!!

CERTIFICATE OF SERVICE

I, DAVID SCOTT VARNALL HEREBY CERTIFY THAT I HAVE SERVED A TRUE AND CORRECT COPY OF THE ATTACHED MOTION UPON THE FOLLOWING PARTY ON THE 6 DAY OF DECEMBER, 2006

ATTORNEY GENERAL
DEPT OF JUSTICE
108 WEST WATER ST 3RD FL
DOVER DE 19904

AKIN AND HERRON P.A.
/S/ BRUCE C. HERRON
1220 N. MARKET ST
SUITE 300
P.O. BOX 25047
WILMINGTON, DE 19899

CHIEF EXECUTIVE OFFICER OF THE CITY OF MILLSBORO
322 WILSON HIGHWAY
MILLSBORO, DE 19966

DATED: 12/06/06

DSC
SIGNATURE OF MOVANT (NOTARIZED)
NOT REQUIRED